§ 220.161 How work affects an employee disability annuity.

In addition to the condition in § 220.160, the employee's disability annuity is not payable and the employee must return the annuity payment for any month in which the employee earns more than $400 (after deduction of impairment-related work expenses) in employment or self-employment of any kind. Any annuity amounts withheld because the annuitant earned over $400 in a month may be paid after the end of the year, as shown in § 220.164. The $400 monthly limit no longer applies when the employee attains retirement age and the disability annuity is converted to a full age annuity. See § 220.145 for the definition of impairment-related work expenses.

[56 FR 12980, Mar. 28, 1991, as amended at 68 FR 39010, July 1, 2003]

§ 220.162 Earnings report.

(a) *General.* Any annuitant receiving an annuity based on disability must report to the Board any work and earnings as described in §§ 220.160 and 220.161. The report may be a written or oral statement by the annuitant, or a person acting for the annuitant, made or sent to a representative of the Board. The report should include the name and address of the railroad or non-railroad employer, a description of the work and the amount of gross wages (before deductions) or the net income from self-employment (earnings after deducting business expenses).

(b) *Employee reports.* In addition to the requirement described in (a), a report of earnings over $400 a month must be made before the employee accepts a disability annuity (the annuity payment is issued and not returned) for the second month after the first month in which earnings are over $400. Along with the report, the employee must return the annuity payment for any month in which he or she earns over $400.

§ 220.163 Employee penalty deductions.

If the employee earns over $400 in a month and does not report it within the time limit shown in § 220.162(b), a penalty is imposed. The penalty deduction for the first failure to report equals the annuity amount for the first month in which the employee earned over $400. The deduction for a second or later failure to report equals the annuity amount for each month in which the employee earned over $400 and failed to report it on time.

§ 220.164 Employee end-of-year adjustment.

(a) *General.* After the end of a year, the employee whose annuity was withheld for earnings over $400 in a month receives a form on which to report his or her earnings for the year.

(b) *Earnings are less than $5000.* If the employee's yearly earnings are less than $5000, all annuity payments and penalties withheld during the year because of earnings over $4800 are paid.

(c) *Earnings are $5000 or more.* (1) If the employee's yearly earnings are $5000 or more, the annuity payments are adjusted so that the employee does not have more than one regular deduction for every $400 of earnings over $4800. The last $200 or more of earnings over $4800 is treated as if it were $400. If the annuity rate changes during the year, any annuities due at the end of the year are paid first for months in which the annuity rate is higher. Penalty deductions may also apply as described in paragraph (c)(2) of this section.

(2) If the employee's yearly earnings are $5000 or more and the employee failed to report monthly earnings over $400 within the time limit described in § 220.162(b), penalty deductions will also apply. If it is the employee's first failure to report, the penalty deduction is equal to one month's annuity. If it is the employee's second or later failure to report, the penalty deduction equals the annuity amount for each month in which the employee earned over $400 and failed to report it on time.

(d) This section is illustrated by the following examples:

Example 1: Employee is awarded a disability annuity based upon his inability to engage in his regular railroad occupation effective January 1, 1989. During that year, he works April through October, for which he receives $785 per month. He does not report these earnings to the Board until January of the following year. The employee is considered to have earned $5600 (7×$785=$5495, which